IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.10/2000

1. State of Goa
through Dy. Collector & L.A.O.
Quepem.

2. Executive Engineer,
P.W.D. W.D. XXV (NH),
Gogal, Margao. ..... Appellants.

V/s.

1. Castaninho Pereira (expired)
represented by his Legal Heirs.

1a) Smt. Cristina Pereira,
1b) Shri Joseph Romco Nicolas
Pereira,
1c) Smt. Teodolinda D'Souza,
1d) Shri Moises D'Souza,
1e) Smt. Sucorrina Barreto,
1f) Shri Domnick Barrreto,
1g) Smt. Juliet Viegas,
1h) Shri Francis Viegas,
Sirlim, Chinchinim,
Salcete, Goa. ..... Respondents.

Ms. Winnie Coutinho, Government Advocate for the appellants.

The respondents served – absent.

CORAM : R.M. LODHA, J.

DATE : 14TH OCTOBER, 2005.

ORAL JUDGMENT

This first appeal is at the instance of the State of Goa through the Deputy Collector and Land Acquisition Officer, Quepem and the Executive Engineer, P.W.D., W.D. XXV (NH), Gogal, Margao against the Judgment and Award dated 11.12.1998 passed by the IInd Additional District Judge, South Goa, at Margao. By the said Judgment and Award, the Reference Court fixed the market value of the acquired land admeasuring 300 sq. metres out of the property bearing Survey No. 323/17 of Village Chinchinim belonging to the respondent (now represented by his legal heirs and hereinafter, referred to as "the Claimant").

2. The Government of Goa issued Notification dated 11/05/1988 that was published in the Official Gazette on 04/08/1988 under Section 4(1) of the Land Acquisition Act for the compulsory acquisition of the afore-referred land along with other land for the purpose of widening and improvement of National Highway No.17. The Land Acquisition Officer, on completion of the acquisition proceedings, awarded the compensation at the rate of Rs.14/- per sq. metre. According to

the Claimant, the offer made by the Land Acquisition Officer at the rate of Rs.14/- per sq. metre was too low and he sought for reference to be made to the Civil Court for determination of the compensation. The Land Acquisition Officer, accordingly, referred the matter to the Civil Court.

3. Before the Reference Court, the Claimant Joseph Pereira (AW.1) examined himself and also Vikas Dessai (AW.2) and Joao Viegas (AW.3). The Claimant produced Sale Deed dated 24.11.79 (Exhibit AW.1/A) and the valuation report prepared by Vikas Dessai (Exhibit AW.2/A).

4. No evidence was produced by the present appellants in rebuttal.

5. From the evidence on record, it appears that the acquired land is situated at a junction of Margao-Collen Chinchinim road. That the acquired land was levelled land suitable for construction and had amenities such as the School, the market, the Church, the Bank, the Post Office and the hospital within a radius of 500 metres to 1.00 Km., is also apparent from the evidence.

6. The evidence of the Claimant also shows that the Claimant had purchased the subject-land in the year 1979 at the rate of Rs. 40/- per sq. metre. Though the expert witness AW.2 in his evidence indicated that during the period between 1980 - 1990 the price of the land in that area had increased by 20 % per year, that was not accepted by the Reference Court. The Reference Court was of the view that yearly 10 % increase from 1979 when the land was purchased by the Claimant would be reasonable. I find that the Reference Court was justified in fixing the market value of the subject-land at the rate of Rs.40/- per sq. metre in the year 1979. As a matter of fact, the Claimant himself purchased the said land at that rate. There is no evidence that the price at which the Claimant purchased the subject-land was overpriced. If the 20 % yearly increase during the period 1980 – 1990 as suggested by AW.2 was not acceptable, 10 % increase during the period from 1980 – 1990 appears to be fair and reasonable, particularly there being no evidence to the contrary.

7. The learned Government Advocate could not show that any wrong principle had been applied by the Reference

Court in determining the compensation.

8. It is pertinent to mention that for the similarly situated land, under the same notification, for the same purpose, the Reference Court awarded compensation at the rate of Rs.100/- per sq. metre and in one of the appeals being First Appeal No. 32/1999, **State of Goa and anr. Vs. Joaquim B. Crasto** decided by me on 6th October, 2005, I maintained the market rate fixed by the reference Court at the rate of Rs.100/- per sq. metre being reasonable and realistic based on the evidence in that case. In that case, the Sale Deed dated 13.8.1985 was placed on record. The said sale deed has not been produced in the present case.

9. Be that as it may, on the basis of the evidence on record, particularly the fact that the subject-land was purchased by the Claimant in the year 1979 at the rate of Rs.40/- per sq. metre, the market rate fixed at the rate of Rs.95/- per sq. metre for the acquired land as on 4.8.1988 cannot be said to be unjustified by applying 10 % increase every year.

10. All in all, the market value fixed by the Reference Court of the acquired land at the rate of Rs.95/- per sq. metre is reasonable and realistic and warrants no interference.

11. First Appeal has no merit and is dismissed. As the respondents have chosen not to appear, no cost.

R.M. LODHA, J.

ssm.